

ORIGINAL

Approved:


KEDAR S. BHATIA

Assistant United States Attorney

Before: THE HONORABLE STEWART D. AARON
United States Magistrate Judge
Southern District of New York

19MAG . 3481

----- X : UNITED STATES OF AMERICA : COMPLAINT
----- : :
----- v. : : Violation of 8 U.S.C.
----- : : SS 1326(a) & (b) (2)
JOSE ALBERTO NUNEZ, *Ventura* : :
a/k/a "Luis Rodriguez," : :
a/k/a "Eric Casabo-Martinez," : COUNTY OF OFFENSE:
a/k/a "Eric Casado-Martinez," : BRONX
----- : :
----- : Defendant. :
----- : :
----- X

SOUTHERN DISTRICT OF NEW YORK, ss.:

BRIAN FIGUEIREDO, being duly sworn, deposes and says that he is a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs Enforcement, and charges as follows:

COUNT ONE
(Illegal Reentry)

1. From at least in or about March 21, 2019, in the Southern District of New York and elsewhere, JOSE ALBERTO NUNEZ, a/k/a "Luis Rodriguez," a/k/a "Eric Casabo-Martinez", a/k/a "Eric Casado-Martinez", the defendant, being an alien, unlawfully did enter, and was found in, the United States, after having been removed from the United States subsequent to a conviction for the commission of an aggravated felony, without having obtained the express consent of the Attorney General of the United States or his successor, the Secretary for the Department of Homeland Security, to reapply for admission.

(Title 8, United States Code, Sections 1326(a) and (b) (2).)

The bases for my knowledge and the foregoing charge are, in part, as follows:

2. I am an officer with the United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE"), and I have been personally involved in the investigation of this matter. This affidavit is based in part upon my conversations with law enforcement agents and others, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

3. Based upon my review of public court records and records maintained by ICE regarding JOSE ALBERTO NUNEZ, a/k/a "Luis Rodriguez," a/k/a "Eric Casabo-Martinez", a/k/a "Eric Casado-Martinez", the defendant, including NUNEZ's criminal history, I have learned, among other things, the following:

a. NUNEZ is a native and citizen of the Dominican Republic. He is not, and has never been, a citizen of the United States.

b. On or about August 23, 2001, NUNEZ was found in and arrested in the United States. On or about December 18, 2001, NUNEZ pleaded guilty in New York County Criminal Court to conspiracy to distribute cocaine, in violation of New York Penal Law § 105.15. On or about January 18, 2002, NUNEZ was sentenced to one-to-three years' imprisonment.

c. As a result of his December 18, 2001, conviction, deportation proceedings were initiated against NUNEZ. On or about August 19, 2003, a warrant of removal was issued. On or about September 19, 2003, NUNEZ was removed from the United States.

d. On or about August 7, 2006, NUNEZ was again found in and arrested in the United States. On or about October 12, 2006, NUNEZ was charged in the United States District Court for the Southern District of New York with one count of conspiracy to distribute and possess with intent to distribute a controlled substance, to wit, one hundred grams and more of

heroin, in violation of 21 U.S.C. §§ 812, 841(a)(1), and 841(b)(1)(B), and one count of illegal reentry, in violation of 8 U.S.C. § 1326(a) and (b)(2). On or about September 14, 2007, NUNEZ pleaded guilty to both charged counts. On or about February 6, 2008, NUNEZ was sentenced by the Hon. Richard J. Sullivan to 65 months' imprisonment, four years' supervised release, and a \$100 special assessment.

e. On February 1, 2011, a warrant of removal was issued ordering NUNEZ to be removed. On May 5, 2011, NUNEZ was again removed from the United States.

4. On March 21, 2019, JOSE ALBERTO NUNEZ, a/k/a "Luis Rodriguez," a/k/a "Eric Casabo-Martinez", a/k/a "Eric Casado-Martinez", the defendant, was found at and arrested at 600 West 192nd Street in the Manhattan borough of New York, New York, during an ICE investigation into other individuals.

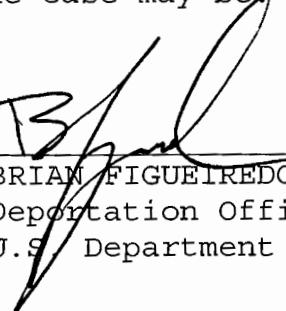
5. I have reviewed a report prepared by a trained fingerprint examiner working for ICE who reviewed the fingerprint impression taken of JOSE ALBERTO NUNEZ on or about March 21, 2019, by ICE in New York, New York, in connection with his arrest on or about that date, and compared those fingerprint impressions with the fingerprint impressions taken of JOSE ALBERTO NUNEZ on or about May 5, 2011, in connection with his 2011 removal and with the fingerprint impressions taken of "Eric Casado Martinez" on or about August 7, 2006, in connection with his 2006 arrest. The fingerprint impressions came back to one and the same individual, JOSE ALBERTO NUNEZ, a/k/a "Luis Rodriguez," a/k/a "Eric Casabo-Martinez", a/k/a "Eric Casado-Martinez", the defendant.

6. Based on my review of records maintained by ICE and my involvement in this investigation, I have learned that ICE has performed searches of all ICE indices and confirmed that, following his removal to the Dominican Republic, JOSE ALBERTO NUNEZ, a/k/a "Luis Rodriguez," a/k/a "Eric Casabo-Martinez", a/k/a "Eric Casado-Martinez", the defendant, never obtained the express consent of the Attorney General of the United States or the Secretary for the Department of Homeland Security to reapply for admission to the United States.

7. Based upon my training and experience with ICE, I understand that the 2001 conviction and the 2007 conviction for conspiracy to distribute and possess with intent to distribute a controlled substance each constitutes an "aggravated felony"

within the meaning of Section 1326(b)(2) of Title 8 of the United States Code.

WHEREFORE, deponent respectfully requests that JOSE ALBERTO NUNEZ, a/k/a "Luis Rodriguez," a/k/a "Eric Casabo-Martinez", a/k/a "Eric Casado-Martinez", the defendant, be imprisoned or bailed, as the case may be.



BRIAN FIGUEIREDO
Deportation Officer
U.S. Department of Homeland Security

Sworn to before me this
9 th day of April 2019



THE HONORABLE STEWART D. AARON
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK